

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

THE CITY OF HUNTINGTON,

Plaintiff,

v.

AMERISOURCEBERGEN DRUG
CORPORATION, *et al.*

Defendants.

Civil Action No. 3:17-01362

CABELL COUNTY COMMISSION,

Plaintiff,

v.

AMERISOURCEBERGEN DRUG
CORPORATION, *et al.*

Defendants.

Civil Action No. 3:17-01665

DEFENDANTS' THIRTEENTH DISCOVERY STATUS REPORT

For the benefit of the Special Master and the information of the Court, Defendants submit their thirteenth biweekly discovery status report pursuant to the Court's request during the March 5, 2020 status conference. *See* Status Conf. Tr. 41:15-23 (Mar. 5, 2020).¹

Discovery is now focused on completing expert depositions. The parties have agreed on deposition dates in September for all of Plaintiffs' experts and the majority of Defendants' experts. Defendants have now completed the vast majority of third-party discovery, with only a handful of

¹ Consistent with discussion at the status conference, this filing is not a vehicle to seek any relief from the Court and any necessary motions will be filed separately. Rather, this report is simply to update the Special Master on the progress of the case as the Court monitors the overall schedule and plans for the litigation.

outstanding depositions still to be taken. Because of delays caused by the COVID-19 pandemic, much of this third-party discovery was not available until very recently, including after or very shortly before the August 27 deadline for Defendants' expert disclosures. Defendants may need to supplement their expert reports accordingly, although this issue is not yet ripe.

I. Fact Discovery

Defendants have worked diligently to complete important third-party depositions in a timely manner despite delays in document production. The few remaining third-party deponents come from West Virginia state agencies and Marshall University, both of which served late and voluminous productions. As reported in Defendants' previous status report, Marshall University and Marshall Health produced approximately 500,000 pages on July 27, and the State of West Virginia Department of Health and Human Resources (DHHR) produced over 1.6 million pages on July 30. By agreement of the parties, the remaining third-party depositions are proceeding past the formal deadline for fact discovery.

Defendants' May 15 motion for discovery responses from the West Virginia Bureau for Children and Families (BCF) remains fully briefed. ECF Nos. 430, 431. The documents in question were among those produced from DHHR. Defendants offered to have their vendor process the documents, to which Plaintiffs agreed, and progress is being made. No action from the Court is currently required.

All Defendants have now entered into stipulations with Plaintiffs such that no further depositions of Defendant witnesses are expected to take place in this action. As reported in previous status reports, two depositions of Plaintiffs' witnesses remain outstanding due to personal and family health issues. The parties have agreed to future depositions for trial witnesses who have not been deposed previously in any opioid litigation.

II. Expert Discovery

Defendants are currently taking the depositions of Plaintiffs' expert witnesses and depositions of Defendants' experts are also scheduled to begin this week. Defendants have accepted dates between September 1 and September 22 for 19 of Plaintiffs' 20 experts, and dates for the majority of Defendants' 24 experts have also been set. Owing to the logistical difficulty of scheduling 44 expert depositions in 22 days, a small number of depositions may need to be scheduled shortly after the September 22 deadline.

Dated: September 8, 2020

Respectfully Submitted,

McKesson Corporation

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CERTIFICATE OF SERVICE

The undersigned counsel hereby certifies that on this 8th day of September, the foregoing **“Defendants’ Thirteenth Discovery Status Report”** was served using the Court’s CM/ECF system, which will send notification of such filing to all counsel of record.

/s/ Jeffrey M. Wakefield

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